IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CRML LEAVE TO APPEAL No. 305 of 2006

STATE
V/S
DEVI LAL

Mr. OP BOOB, PP, for the appellant / petitioner

Date of Order : 28.2.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned Public Prosecutor, and perused the record and also considered the findings recorded by the learned trial court.

From the perusal of the statement of the girl P.W.1 it is clear that she was carrying affairs with the accused for the last six months before the date of incident, and has also admitted to be having intercourse with him, and had voluntarily gone from the house with the accused with intention to marry, they had taken a house on rent, the accused was going to clinic, they had purchased the household articles to establish the house. In these circumstances, the precise question is about the age of the victim. In this regard a look at the statement of P.W. 3 Bhanwar Singh shows that he has deposed that he does not know in which year she was born. Then, P.W. 8 is the father

who has not supported the case of the prosecution, and has been declared hostile. Apart from the fact that he has not deposed anything about the age of the girl. Then, remains the evidence of P.W.5 the mother, who of course has purported to depose in examination in chief that her marriage was solemnised some 18 years back, and after four years of marriage the girl P.W.1 was born, and thereafter after 1 ½ years another son Shambhu Singh. Thus it is attempted to establish that the girl is about 14 years of age. However, in her cross-examination she has admitted that she got operated for sterilization, and thereafter she was issued the card Ex.D-1. She has also admitted that the contents of this card are correct. A look at card Ex.D-1 shows that this is issued on 2.2.1993, and therein it is mentioned that the family was consisting of her husband, daughter aged 4 years being Chain Kanwar, and her son Shambhu Singh aged 2 years. Thus, from this it is clear that it cannot be said that the girl was below 16 years of age, and the learned trial court considering all these material has found the consent to be valid, and has acquitted the accused.

In my view, the findings do not suffer from any error requiring interference in this appeal against acquittal. As such the petition for leave to appeal is dismissed.

(N P GUPTA),J.

/Sushil/